

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RUDOLPH ROSSI,

Plaintiff,

-against-

9:00-CV-1521
(LEK/DEP)

GLENN GOORD, *Commissioner of
the Department of Correctional
Services, et al.*,

Defendants.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on February 22, 2007, by the Honorable David E. Peebles, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 115).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge Peebles' Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 115) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

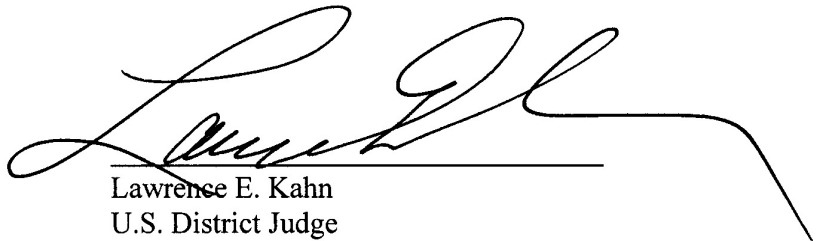
ORDERED, that Plaintiff's Motion for reconsideration (Dkt. No. 110) is **GRANTED**, and

Plaintiff's excessive force claim against **Defendants Kobelt, Freer and Rankin** is **REINSTATED**, subject to the understanding that the portions of Plaintiff's claims related to the ensuing misbehavior report and disciplinary finding from July of 1999 were properly dismissed, and are therefore **not reinstated** herein; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: March 29, 2007
Albany, New York



Lawrence E. Kahn
U.S. District Judge